

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION

ERIC LEMOINE, et al.,

Plaintiffs,

v.

MOSSBERG CORPORATION, et al.,

Defendants.

Misc. Case No.: 1:19-mc-00040-
HSM-CHS

**DEFENDANTS' SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO
COMPEL COMPLIANCE WITH SUBPOENA**

Defendants Mossberg Corporation and O.F. Mossberg & Sons, Inc. (collectively, "Mossberg") hereby submit this Supplemental Brief in support of Mossberg's Motion to Compel Compliance with Subpoena, supporting Memorandum and Declaration filed September 18, 2019 ("Motion"; Dkt. Nos. 1-3). Mossberg's Motion seeks an order compelling nonparty SDS Imports, LLC ("SDS") to comply with a Fed. R. Civ. P. 45 document subpoena served in connection with ongoing litigation initiated by Plaintiffs Eric Lemoine and TTC Performance Products, Inc., d/b/a Black Aces Tactical ("Plaintiffs") in the United States District Court, District of Connecticut Case No. 3:18-CV-01270-KAD (the "Litigation").

Under the Local Rules of this Court, SDS' opposition to the Motion was due no later than 14 days after service or by October 4, 2019. The docket in this matter

shows that SDS has not filed any opposition to date, nor has Mossberg been served with any opposition. Local Rule 7.2 provides in part that "...[f]ailure to respond to a motion may be deemed a waiver of any opposition to the relief sought." Based on SDS' failure to submit any opposition to Mossberg's Motion and applicable Local Rules, Mossberg respectfully requests that the Court grant the relief sought by Mossberg, vacate the currently scheduled hearing, and order SDS to comply with the underlying subpoena within 14 days of the order granting the Motion.

A proposed order granting the Motion is attached hereto. As requested, Mossberg has separately emailed a proposed order to this Court at steger_chambers@tned.uscourts.gov.

Dated this 17th day of October, 2019.

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CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2019, a true and correct copy of this document was served on counsel for all parties of record or their counsel in this matter by delivering to the address of said parties or their counsel, by placing the same in the United States Mail addressed to the parties or to the office of the counsel, postage pre-paid, as follows:

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